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White House Asked McGahn to Declare Trump Never Obstructed Justice

By **Michael S. Schmidt**

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WASHINGTON — White House officials asked at least twice in the past month for the key witness against President Trump in the Mueller report, Donald F. McGahn II, to say publicly that he never believed the president obstructed justice, according to two people briefed on the requests.

Mr. Trump asked White House officials to make the request to Mr. McGahn, who was the president's first White House counsel, one of the people said. Mr. McGahn declined. His reluctance angered the president, who believed that Mr. McGahn showed disloyalty by telling investigators for the special counsel, Robert S. Mueller III, about Mr. Trump's attempts to maintain control over the Russia investigation.

The White House made one of the requests to Mr. McGahn's lawyer, William A. Burck, before the Mueller report was released publicly but after the Justice Department gave a copy to Mr. Trump's lawyers in the preceding days. Reading the report, the president's lawyers saw that Mr. Mueller left out that Mr. McGahn had told investigators that he believed the president never obstructed justice. Mr. Burck had told them months earlier about his client's belief on the matter and that he had shared it with investigators.

Mr. McGahn initially entertained the White House request. "We did not perceive it as any kind of threat or something sinister," Mr. Burck said in a statement. "It was a request, professionally and cordially made." A White House spokeswoman did not respond to a message seeking comment.

But after the report was released, detailing the range of actions Mr. Trump took to try to impede the inquiry, Mr. McGahn decided to pass on putting out a statement supportive of the president. The report also revealed that Mr. Trump told aides he believed Mr. McGahn had leaked to the news media to make himself look good.

The episodes show the lengths the White House has gone around the release of the Mueller report to push back on the notion that Mr. Trump obstructed justice. House Democrats have used the report to open investigations into whether Mr. Trump abused his position to insulate himself from the Russia inquiry.

The revelations came as the Democrats on Friday increased their pressure on the White House on other fronts. The chairman of the House Ways and Means Committee, Richard E. Neal, subpoenaed the Treasury Department and Internal Revenue Service for six years of Mr. Trump's personal and business tax returns. Democrats are also pursuing testimony from Mr. Mueller but have not agreed on a date, Representative Jerrold Nadler of New York, the chairman of the House Judiciary Committee, told reporters.

In the days after the report was released, White House officials asked Mr. McGahn again to put out a statement as Mr. Trump fumed about his disclosures but Mr. McGahn rebuffed the second request as well.

White House officials believed that Mr. McGahn publicly asserting his belief would calm the president and help the administration push back on the episodes that Mr. Mueller detailed in the obstruction section of the report, said one of the people. Both spoke on the condition of anonymity to describe private conversations involving the White House.

Around the time Mr. McGahn declined the second request, the president's lawyer Rudolph W. Giuliani began publicly attacking his credibility, saying that Mr. McGahn had a bad memory. "It can't be taken at face value," Mr. Giuliani said of Mr. McGahn's account one day after the Mueller report was released. "It could be the product of an inaccurate recollection or could be the product of something else."

The White House learned in August that Mr. McGahn had told Mr. Mueller's investigators that he believed the president had not obstructed justice, according to one of the people. After a New York Times article revealed that Mr. McGahn had spoken to investigators for at least 30 hours, Mr. Burck tried to reassure the White House by explaining that his client told Mr. Mueller that he never believed Mr. Trump had committed an obstruction offense.

Mr. McGahn's cooperation with Mr. Mueller played a crucial role in allowing the special counsel's investigators to paint a picture in their report of a president determined to use his power atop the executive branch to protect himself from the Russia investigation.

The president's lawyers are particularly concerned about two episodes that Mr. McGahn detailed to prosecutors. In one, Mr. Trump asked him to fire the special counsel but backed off after Mr. McGahn refused. After that episode was revealed, the president asked Mr. McGahn to create a White House document falsely rebutting his account. Mr. McGahn declined to go along but told Mr. Mueller about the encounters.

It makes no difference legally whether Mr. McGahn believes Mr. Trump obstructed justice. That is a determination made by prosecutors, not witnesses. But politically, such a statement could have been a powerful argument for Mr. Trump, who faces scrutiny from House Democrats about whether he obstructed justice and abused his power.

Mr. Mueller declined to make a determination about whether Mr. Trump obstructed justice, saying that because a sitting president cannot be indicted, it was unfair to accuse him of committing a crime. Attorney General William P. Barr stepped in and decided with his deputy, Rod J. Rosenstein, to clear Mr. Trump of wrongdoing.

But because Mr. Mueller made no determination — and wrote a damning report that showed repeated efforts by Mr. Trump to interfere with his inquiry — questions about whether the president obstructed justice have lingered as Democrats have sought to gain momentum in their investigation of Mr. Trump.

The Democrat-led House Judiciary Committee has subpoenaed Mr. McGahn to testify. But White House advisers have indicated they will try to block him from appearing before lawmakers, and Mr. Trump has said that there is no reason for Mr. McGahn to speak with congressional investigators because he had cooperated so extensively with Mr. Mueller's team.

"I've had him testifying already for 30 hours and it's really — so I don't think I can let him and then tell everybody else you can't," Mr. Trump said last week in an interview with Fox News. "Especially him, because he was a counsel, so they've testified for many hours, all of them, many, many, many people. I can't say, 'Well, one can and the others can't.' I would say it's done."

Mr. McGahn left the White House last year but is still entangled with the president on matters related to the Mueller investigation. The White House instructed Mr. McGahn on Tuesday to not turn over documents he had to the House in response to a subpoena. Mr. McGahn followed the White House's advice and is now waiting to see whether Democrats will hold him in contempt.

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